

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,      :
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      - v. -                    :
                                :      S1 11 Cr. 907 (JSR)
RAJAT K. GUPTA,                :
                                :
      Defendant.                :
                                :
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GOVERNMENT'S PROPOSED EXAMINATION OF PROSPECTIVE JURORS

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The Government respectfully requests that the Court include the following questions in its examination of prospective jurors pursuant to Rule 24(a) of the Federal Rules of Criminal Procedure. The Court is requested to pursue more detailed questioning if a particular juror's answer reveals that further inquiry is appropriate and, in such instance, to conclude with an inquiry as to whether the particular fact or circumstance would influence the juror in favor of or against either the Government or the defendants.

A. Introduction

1. This is a criminal case. The defendant RAJAT K. GUPTA is charged with federal crimes in an Indictment filed by a grand jury sitting in this District. The indictment is not evidence. It simply contains the charges that the Government is required to prove to the satisfaction of the jury beyond a reasonable doubt. I would now like to summarize the charges in this case in order to determine whether there is anything about

the nature of this case that may make it difficult or inappropriate for any of you to serve on the jury.

2. The Indictment contains a total of six counts. You will hear a lot more about these charges in the coming days, but let me now provide you with a brief summary of the allegations in this case.

Count One of the Indictment charges that RAJAT K. GUPTA conspired to violate the federal law that makes it unlawful to commit securities fraud. More specifically, Count One charges that RAJAT K. GUPTA joined in an agreement or understanding with Raj Rajaratnam and others to disclose material, nonpublic information, referred to as Inside Information, about Goldman Sachs, Procter & Gamble, and the J.M. Smucker Company, in violation of GUPTA's duties of trust and confidence.

Counts Two through Six of the Indictment charge that RAJAT K. GUPTA committed securities fraud by disclosing Inside Information to Raj Rajaratnam and others who then traded or caused others to trade securities on the basis of the Inside Information.

3. Does any juror have any personal knowledge of the charges in the Indictment in this case? Has any juror read or heard anything about this case? If so, is there anything such a juror has read or heard that would cause him or her to feel that

he or she cannot decide the fact issues of this case fairly and impartially?

B. Nature of the Charges

4. During the trial, you will hear evidence regarding the securities industry. Does the fact that the charges involve the securities industry or fraud alleged to have been committed in connection with the securities industry make it difficult for any of you to render a fair verdict?

5. Have any of you worked in the securities industry? Have any of you served as a director or an officer of a public company?

6. Do any of you believe that purchasing or selling securities based on material, nonpublic information, otherwise known as insider trading, should not be illegal or should not be enforced criminally? Does any juror feel that he or she could not decide fairly and impartially a case involving insider trading, or trading relating to securities of a public company?

C. Knowledge of the Trial Participants

7. As I have said, the defendant in this case is RAJAT K. GUPTA [please ask the defendant to stand]. Do any of you know, or have you had any dealings, directly or indirectly, with the defendant, or with any relative, friend, or associate of the defendant? To your knowledge, do any of your relatives, friends, associates, or employers know the defendant?

8. Defendant RAJAT K. GUPTA is represented in this case by Gary Naftalis, Esq., Alan Friedman, Esq., David Frankel, Esq., Michael Oberman, Esq., Stephen Sinaiko, Esq., Robin Wilcox, Esq., and Arielle Katz, Esq., of the law firm of Kramer, Levin, Naftalis and Frankel LLP [please ask the attorneys stand]. Do any of you know any of these attorneys or have you had any dealings, either directly or indirectly, with them or anyone associated with their law firm?

9. The Government is represented here, as in all cases where it is a party before the Court, by the United States Attorney for the Southern District of New York, who is Preet Bharara. The conduct of the trial will be in the immediate charge of Assistant United States Attorneys Reed Brodsky and Richard Tarlowe [please ask the AUSAs to stand]. With them at counsel table is Andrea Estok, a Special Agent with the Federal Bureau of Investigation ("FBI") [please ask Special Agent Estok to stand]. At times during the trial, the Government also will be assisted by Sean Fernandez, a paralegal with the United States Attorney's Office [please ask Mr. Fernandez to stand]. Do any of you know Mr. Brodsky, Mr. Tarlowe, Special Agent Estok or Mr. Fernandez? Have you had any dealings, either directly or indirectly, with any of them?

10. Has any juror had any dealings, directly or indirectly, with Goldman Sachs, Procter & Gamble, or the J.M.

Smucker Company? If, so, in what capacity? If so, is there anything about these dealings that would cause any juror to feel that he or she cannot decide the fact issues of this case fairly and impartially?

11. Does any juror know or has he or she had any dealings, either directly or indirectly with any of the following individuals or entities who may be called as witnesses or whose names may come up during the trial?

Galleon

McKinsey & Company

Deutsche Bank

Morgan Stanley

Broadstreet Capital

Ayad Alhadi

Judith Allen

James Barnacle

Lloyd Blankfein

Mark Belgya

Charlie Benziger

Lila Bibi

Michael Cardillo

Kenneth Chenault

Gary Cohn

Caryn Eisenberg

Bill George

Renee Gomes

Ian Horowitz

William Keaton

Anil Kumar

A.G. Lafley

David Lau

George Lau

Isvari Mahadeva

Jon Moeller

Ananth Muniyappa

John O'Connor

Jennifer Padovani

Steven Peikin

Alexander Pena

Stephen Pierce

Timothy Pierotti

Raj Rajaratnam

RK Rajaratnam

Shireen Reddy

Jeffery Roberts

Gary Rosenbach

Gina Santaniello

Mark Schwartz

Raina Shakdher

Leon Shaulov

Carolann Shields

Adam Smith

Andrew Smith

Anita Teglas

Ravi Trehan

Byron Trott

Brock Vandervliet

David Vinjar

Eric Wasserstrom

Heather Webster

Diane Wehner

Joe Yanigasawa

Jogalingam Yogakumar

Thomas Zukauskas

[The Court also is requested to read the names of witnesses included on the Defendant's witness list.]

D. Relationship With Government

12. Do any of you know, or have any association -- professional, business, or social, direct or indirect -- with any member of the staff of the United States Attorney's Office for the Southern District of New York, the United States Securities and Exchange Commission (the "SEC"), or the FBI? Is any member of your family employed by any federal department or agency, any



law enforcement agency, or any securities regulatory agency, whether federal, state or local? Is any member of your family employed by a stock exchange or a business that is involved in the purchase and sale of securities?

13. Does any juror have any bias, prejudice or other feelings for or against the United States Attorney's Office, the SEC, the FBI, or any other law enforcement or securities regulatory agency?

14. Have you, or any family member, either as an individual or in the course of business, ever been a party to any legal action or dispute with the United States, any officer, department, agency, or employee of the United States, the SEC, the Internal Revenue Service (the "IRS"), or the FBI, or had any interest in any such legal action or dispute or its verdict?

15. Have you, or has any member of your family, either as an individual or in the course of his or her business, had involvement with the SEC or had contact with FINRA, the NASD or the New York Stock Exchange? Would anything about such experience make it difficult for you to hear this case fairly?

16. Have you, or any member of your family, ever been employed by a criminal defense lawyer or private investigator?

E. Prior Jury Service

17. Have you ever, at any time, served as a member of a grand jury, whether federal, state, county or city court?

18. Have you ever served as a juror in a trial in any court? If so, when and in what court did you serve and was it a civil or criminal case? Did the jury reach a verdict?

F. Experience as a Witness, Defendant, or Crime Victim

19. Has any juror or any relative or close friend ever been involved or appeared as a witness in any investigations by a federal or state grand jury or by a Congressional or state legislative committee, licensing authority, or governmental agency, or been questioned in any matter by a federal, state, or local law enforcement agency?

20. Has any juror or any relative or close friend ever been involved or appeared as a witness in any investigations by the SEC, FINRA, the NASD, or the New York Stock Exchange, or been questioned in any matter by investigators for such agencies?

21. Have you ever been a witness or a complainant in any prosecution, state or federal?

22. Are you, or any family member, to your knowledge, now under subpoena or about to be subpoenaed in a criminal case?

23. Have you, any member of your family, business associate or close friend, ever been charged with a crime?

24. Has any juror or any relative, associate, or close friend ever been the subject of any investigation or accusation by any grand jury, federal or state, by any Congressional committee, or by the SEC, FINRA or the NASD?

25. Has any juror, or friend or relative of any juror, ever been a victim of a crime?

26. Has any juror, or friend or relative of any juror, ever been a victim of a fraudulent scheme?

G. Witnesses

27. The witnesses in this case may include law enforcement personnel, including Special Agents of the FBI. Would you be more likely to believe or disbelieve a witness merely because he or she is a law enforcement officer? Can each of you agree to consider testimony from such witnesses fairly and impartially?

28. You will also hear testimony in this case from a witness who was involved in the offenses charged in the Indictment and who has pleaded guilty to crimes and entered into a cooperation agreement with the Government. This witness may be referred to as a cooperating witness. Do you have any feelings about the use of evidence obtained from such a witness that would make it difficult for you to render a wholly fair and impartial verdict? Do any of you believe that you could not be fair and impartial in case in which you may hear testimony from a cooperating witness?

H. Other Questions

29. Do any of you have problems with your hearing or

vision that would prevent you from giving full attention to all of the evidence at this trial?

30. Are any of you taking any medication that would prevent you from giving full attention to all of the evidence at this trial?

31. Do any of you have any difficulty reading or understanding English in any degree?

32. The parties have estimated that this trial will last approximately two weeks. Is there anything about the length of the trial that would make it an extreme hardship for you to serve as a juror?

I. Function of the Court and Jury

33. The function of the jury is to decide questions of fact. You are the sole judge of the facts and nothing that the Court or the lawyers say or do may encroach in any way on your role as the exclusive fact-finders. When it comes to the law, however, you are to take your instructions from the Court, and you are bound by those instructions. You may not substitute your own notions of what the law is, or what you think it should be. At the conclusion of the case, your job will be to determine whether or not each defendant is guilty as charged in the Indictment, based on the law as I give it to you. Does any juror have any bias or prejudice that might prevent or hinder him or

her from accepting the instructions of law that I will give you in this case?

34. Will each of you accept the proposition that the question of punishment is for the Court alone to decide, and that the possible punishment must not enter into your deliberations as to whether or not each defendant is guilty?

35. Will each of you accept the proposition of law that sympathy must not enter into the deliberations of the jurors as to the guilt or innocence of the defendants, and that only the evidence produced here in Court may be used by you to determine the guilt or innocence of the defendants?

36. It is not a particularly pleasant duty to find another individual guilty of committing a crime. Is there any juror who feels that even if the evidence established the defendants' guilt beyond a reasonable doubt, he or she might not be able to render a guilty verdict for reasons unrelated to the law and the evidence?

37. Does any juror have any religious, philosophical, or other belief that would make him or her unable to render a guilty verdict for reasons unrelated to the law or evidence?

38. In these questions, I have tried to direct your attention to possible reasons why you might not be able to sit as a fair and impartial juror. Apart from any prior question, does any juror have the slightest doubt in his or her mind, for any

reason whatsoever, that he or she will be able to serve conscientiously, fairly, and impartially in this case, and to render a true and just verdict without fear, favor, sympathy, or prejudice, and according to the law as it will be explained to you?

J. Individual Questions for Each Juror

39. The Government respectfully requests that the Court ask each juror to state the following information:

- a. the juror's occupation and educational background;
- b. the name and general location of the juror's employer;
- c. the period of employment with that employer;
- d. the nature of the juror's work;
- e. the same information concerning other employment within the last five years;
- f. the same information with respect to the juror's parents, spouse and any working children, and siblings;
- g. the area in which the juror resides and how long they have resided there (the Government respectfully requests that the jurors not be asked their exact address); and
- h. the newspapers and magazines the juror reads regularly.

K. Requested Instruction Following Impaneling of the Jury

40. From this point on until you retire to deliberate your judgment, it is your duty not to discuss this, and not to remain in the presence of other persons who may be discussing

this case. This rule about not discussing the case with others includes discussions even with members of your family or friends. If at any time during the course of this trial, any person attempts to communicate with you, either verbally or in writing, about this case, whether it be in or out of this Courthouse, you should immediately report this attempt to me. In this regard, let me explain to you that attorneys, their assistants, and the defendants in this case are not supposed to speak to you, even to offer a friendly greeting, and have been directed not to do so. So if you should see any of them outside this Courtroom they will, and should, ignore you. Please do not think that they are being rude or discourteous. They will only be acting properly by doing so.

Dated: New York, New York  
May 16, 2012

Respectfully submitted,

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Attorney for the Government  
United States of America

By:       /s/        
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